

REMARKS/ARGUMENTS

Within the final Office Action, claims 1-20 are subject to a restriction requirement, with claims 9-13 and 18-20 withdrawn from further consideration; claims 1-6, 9-12, and 17 are rejected under 35 U.S.C. § 102(e); and claims 7, 8, and 14-16 are rejected under 35 U.S.C. § 103(a). The Applicants respectfully request reconsideration in light of the amendments set forth above and the arguments set forth below. By way of the above amendments, claims 1, 14, and 17 are amended, and claims 9-13 and 18-20 are withdrawn. Accordingly, claims 1-8 and 14-17 are now pending.

Election/Restriction

Within the final Office Action, it is stated that claims 1-8 and 14-17 are drawn to a first species of invention, Species I, and that claims 9-13 and 18-20 are drawn to a second species of invention, Species II. It is further stated that the Applicants' attorney elected to prosecute the invention of Species I and that this election must be affirmed in this response. By this response, the Applicants' affirm this election and withdraw claims 9-13 and 18-20.

Change of correspondence address and attorney docket number

The correspondence address and attorney docket number for this case were changed in the "Power of Attorney and Revocation of Prior Powers of Attorney," filed on January 6, 2005. As stated in that document, and on the title page above, the correspondence address is:

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162 North Wolfe Road
Sunnyvale, California 94086

The attorney docket number, also shown on the title page above, is:

AVARS-02200

Rejections under 35 U.S.C. § 102(e)

Within the Office Action, claims 1-6, 9-12, and 17 are rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,601,098 to Case et al. The Applicants respectfully traverse these rejections.

Case

Case is directed to a system for and method of measuring network latency between two computers. Case discloses (1) requesting from a server a first special Web page at a special uniform resource locator (URL), (2) receiving from the server a redirect response page with a redirection URL, (3) automatically requesting from the server a second special Web page at the redirection URL, and (4) receiving from the server the second special Web page. Referring to Figure 4 and its accompanying text, Case measures latency as the difference between a time T1, when the server receives the request for the first special Web page, and a time T2, when the server detects the request for the second special Web page.

Case does not calculate RTT from transmission and reception of transport protocol packets.

Case discloses determining T1 and T2 by matching the URL in the GET requests with, respectively, the first special URL and the second special URL. Case thus measures latency by comparing URLs, readily available to application layer programs. Nowhere does Case teach, suggest, or provide any motivation for measuring a round trip time from transport protocol packets, accessible at the transport layer, as recited in claims of the present invention.

Case does not retrieve a Web object from the same page that was requested.

Referring to Figure 4, Case discloses a sequence of steps for measuring latency: 400, 405, 410, 415, 400, 420, 430, 435, 440, 445, and 450. In this sequence, Case discloses requesting a Web page in the step 405, sending a Web page (different from the one requested) in the step 415, automatically requesting a redirected Web page (col. 8, lines 12-16), determining a round trip time in the step 440, and sending the actual (requested) Web page requested in the step 450. Web pages are thus sent to a client in the steps 415 and 450. The Web page sent in the step 460 is not part of the sequence in which the round trip time is computed and is not discussed here. As described in more detail below, the claims in the present invention recite requesting a Web page and receiving that Web page (the *requested* Web page), which contains a URL for a Web

object. Case does not disclose these elements.

In the relevant portion of the process described in Case, in only two steps are Web pages downloaded. First, in the step 415, a Web page is sent to the client. This Web page contains a next request (or redirection) URL. **But this Web page was not requested by the user, so this is not the requested Web page.** Second, in the step 450, the requested Web page is sent to the user. **But this Web page does not contain a URL to a Web object that is requested.** After the step 450, the process ends.

Within the final Office Action, it is stated that in the sequence of steps 400, 415, 405, and 420, Case teaches requesting a URL, downloading a Web page, from the Web page retrieving a URL for a Web object, and resolving the URL to a server. As explained above, even if true, this sequence of steps is not the same as those recited in the claims of the present invention.

Claims 1-6

Claim 1 is directed to a method of measuring a performance of a route in an internetwork. The route couples an internetwork server to a terminal on the internetwork. The method comprises (1) at a frequently trafficked portal on the internetwork, detecting a request for a web page from the terminal, where **the** web page is at least partially stored at the frequently trafficked portal; (2) in response to the request for the web page, downloading the web page to the terminal via the internetwork; (3) from **the** web page, retrieving a Uniform Resource Locator (URL) for a web object referenced in the web page; (4) resolving the URL to the internetwork server; (5) detecting a request for the web object from the terminal at the internetwork server; (6) in response to the request for the web object, sending the web object from the internetwork server to the terminal; and (7) concurrent with sending the web object, measuring a Round Trip Time (RTT) from the transmission and reception of corresponding transport protocol packets sent between the internetwork server and the terminal.

As described above, Case does not disclose detecting a request for a Web page and, from the Web page requested, retrieving a URL for a web object referenced in the Web page, as recited in claim 1. Nor does Case disclose measuring a Round Trip Time (RTT) from transport protocol packets, as also recited in claim 1. For at least these reasons, claim 1 is allowable over the teachings of Case.

Claims 2-6 all depend on claim 1. As explained above, claim 1 is allowable over Case. Accordingly, claims 2-6 are all also allowable as depending on an allowable base claim.

Claims 9-12

Within the Office Action, claims 9-12 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Case. By way of the above amendments, claims 9-12 have been withdrawn. Accordingly, the rejection of claims 9-12 will not be addressed here.

Claim 17

Like claim 1, claim 17 also recites detecting a request for a Web page and, from the Web page requested, retrieving a URL for a web object. Like claim 1, claim 17 also recites measuring a Round Trip Time (RTT) from corresponding transport protocol packets. Thus, claim 17 is allowable over Case for at least the same reasons that claim 1 is allowable.

Rejections under 35 U.S.C. § 103(a)

Claims 7 and 8

Within the final Office Action, claims 7 and 8 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Case in view of U.S. Patent No. 6,748,426 to Shaffer et al. The Applicants respectfully traverse these rejections.

Case is again relied on as disclosing all the elements of claim 1. Shaffer is relied on as disclosing a Web object that is visually imperceptible. As described above, claim 1 is allowable over Case. Accordingly, claim 1 is allowable over Case, Shaffer, and their combination. Furthermore, claims 7 and 8, which both depend on claim 1, are allowable as depending on an allowable base claim.

Claims 14-16

Within the final Office Action, claims 14-16 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Case in view of U.S. Patent No. 6,026,441 to Ronen. The Applicants respectfully traverse these rejections.

Within the final Office Action, it is stated that “claim 14 is substantially the same as claim 1 and is thus rejected for reasons similar to those in rejecting claim 1.” Like claim 1, claim 14 also recites “a web page for downloading upon request and at least partially stored on the frequently trafficked web portal, the at least partially stored web page including a Uniform

Resource Locator (URL) for a web object.” Thus, claim 14 recites downloading a requested Web page and retrieving from that Web page a URL for a web object.” Like claim 1, claim 14 also recites measuring one or more Round Trip Times from corresponding transport protocol packets. Thus, claim 14 is allowable over Case for at least the same reasons that claim 1 is allowable over Case. Moreover, because Ronen is relied on only to teach a Domain Name System (DNS) server, claim 14 is allowable over Case, Ronen, and their combination.

Claims 15 and 16 both depend on claim 14. As explained above, claim 14 is allowable over Case, Ronen, and their combination. Accordingly, claims 15 and 16 are also both allowable as depending on an allowable base claim.

No new matter has been added by this amendment.

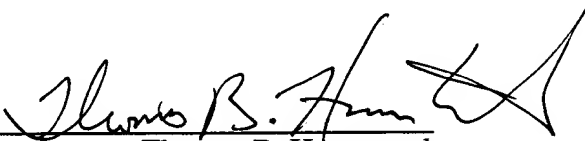
The amendments to claims 1, 14, and 17, “measuring a Round Trip Time (RTT) from the transmission and reception of corresponding transport protocol packets sent between the internetwork server and the terminal,” find support in the application as filed. For example, at page 7, lines 20-23, it is stated, “In some such embodiments, RTT_1 may be determined simply by waiting for an ACK corresponding to the first SYN/ACK.” Similar support is found at page 7, line 23, through page 8, line 4.

CONCLUSION

No new matter has been added by the above amendments. For the reasons given above, the Applicants respectfully submit that claims 1-8 and 14-17 are in condition for allowance, and allowance at an early date would be appreciated. If the Examiner has any questions or comments, the Examiner is encouraged to call the undersigned at (408) 530-9700 so that any outstanding issues can be quickly and efficiently resolved.

Respectfully submitted,
HAVERSTOCK & OWENS LLP

Dated: 7-6-05

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CERTIFICATE OF MAILING (37 CFR§ 1.8(a))

I hereby certify that this paper (along with any referred to as being attached or enclosed) is being deposited with the U.S. Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to the: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450

HAVERSTOCK & OWENS LLP

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